

37 Am. Jur. 2d Fraud and Deceit § 47

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Fraud and Deceit

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III. Means of Perpetration

A. In General

§ 47. Accomplishing by fraud what one could do by lawful means; fraudulent acquisition of property to apply on debt

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  27, 28

Although fraud cannot be predicated upon the doing by lawful means of that which one has a legal right to do,¹ a person will not be permitted to accomplish by fraud that which he or she would be justified in doing by lawful means. Thus, a creditor will not be allowed, by practicing a fraud, to acquire the title to the property of his or her debtor even with the purpose of crediting its value on a just debt.² Also, the giving of a false and fraudulent check in payment of the purchase price of personal property, with the intent that after obtaining possession of the property by such means, the notes of the seller, barred from collection by bankruptcy, would be offset against the purchase price without the consent of the seller, or that a discount from the purchase price would be forced in settlement, is a fraud on the seller for which he or she may rescind the sale and recover his or her property.³

Observation:

To commit fraud in pursuit of a lawful end is nevertheless to commit fraud.⁴

Footnotes

¹ § 46.

² [Ditton v. Purcell, 21 N.D. 648, 132 N.W. 347 \(1911\).](#)

³ [Ditton v. Purcell, 21 N.D. 648, 132 N.W. 347 \(1911\).](#)

⁴ [U.S. v. Krenzelo, 874 F.2d 480, 28 Fed. R. Evid. Serv. 277 \(7th Cir. 1989\).](#)

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